THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14445 OF 2005

ORDER:

This Writ Petition is filed seeking a declaration that the alleged action of the 1st respondent- Executive Officer, Sri Veeranjaneya Swamywari Temple, Suryapalem, in conducting auction of the leasehold rights of the land situated in R.S.No.38 of Suryapalem village on 20.06.2005, as arbitrary and illegal.

The petitioner claims that the land in question i.e., Ac.4.70 cents situated in R.s.No.38 of Suryapalem village, was leased out to him by the 3rd respondent herein, and from the year 1970, he has been in continuous possession and enjoyment of the same. It is stated that the 3rd respondent is the successor of one Thiru Vengala Charyulu, who was granted the land in question as *'paditaram'* for rendition of services as Archaka of Sri Veeranjaneya Swamywari Temple. It is further stated that in view of certain disputes with regard to payment of *maktha*, both the 3rd respondent as well as the petitioner filed several cases against each other in the tenancy Court at Vijayawada, and one such case being O.S.No.1567 of 1985, on the file of the Court of District Munsif, Vijayawada, ended in compromise in the year 1988, and since then, the petitioner has been continuing in possession of the land in question by paying the *maktha* of 66 bags of paddy to the 3rd respondent. While so, the 1st respondent - Executive Officer of the Temple conducted a public auction on 20.06.2005, in respect of the leasehold rights of the land in occupation of the petitioner. The petitioner contends that the said action of the 1st respondent, without any notice to the petitioner, is arbitrary and illegal. It is also alleged that the said auction was conducted by the 1st respondent at the instance of the 3rd respondent, without giving wide publicity as required under law. The further contention of the petitioner is that he being a statutory tenant, cannot be evicted without following the procedure prescribed under the A.P. (A.A.) Tenancy Act, 1956. It is also contended that since the proceedings initiated by him for declaration of his tenancy rights ended in a compromise with the 3rd respondent, he acquired a right to continue in possession in terms of the compromise, and that the 1st respondent has no power or authority to conduct fresh auction in respect of the land in his

occupation.

The 1st respondent filed a counter-affidavit in which the fact that the land in question was given to Thiru Vengala Charyulu as *'paditaram'* in lieu of the services rendered by him as Archaka of the temple and that after his death the 3rd respondent succeeded as Archaka of the Temple, and continuing in possession, has not been disputed. However, it is stated that the 3rd respondent made a representation requesting for payment of salary for the services being rendered by him as Archaka and expressing his willingness to surrender the land in question to the Temple. The petitioner is no way concerned with the land, and that he is not a lessee of the Temple at any point of time. The compromise decree said to have been passed in O.S.No.1575 of 1985 on the file of the Court of the District Munsif, Vijayawada, is not binding on the 3rd respondent and the petitioner has no manner of right in respect of the land in question. It is also stated that the 2nd respondent herein is declared as the highest bidder in the auction conducted on 20.06.2005, however, since he could not comply with the conditions of the auction, a sum of Rs.10,000/- deposited by him was forfeited by the Assistant Commissioner of Endowments, and a fresh public auction was conducted on 25.07.2005. One Praveen Kumar was declared as the highest bidder in the said auction, which was approved by the Assistant Commissioner of Endowments on 29.07.2005, and possession was also delivered to him on 1.08.2005. Hence the Writ Petition is misconceived and liable to be dismissed.

The 2nd respondent filed a separate counter-affidavit stating that though he was the highest bidder in the auction conducted on 20.06.2005, he was prevented by the petitioner who was in actual physical possession of the land in question from entering into the land. It is also stated that he is no way connected with the dispute between the 1st respondent, the 3rd respondent and the petitioner, and that he is ready and willing to pay the *maktha*, and therefore, the re-auction said to have been conducted by the 1st respondent-Temple is arbitrary and illegal.

I have heard the learned counsel for both the parties.

On a perusal of the material on record, it is clear that the petitioner was put in possession of the land by virtue of a lease said to have been granted by the 3rd respondent. Admittedly, there is no privity of contract between the 1st respondent-Temple and the petitioner. It is also not in dispute that the 3rd respondent came into possession of the land

in question being the successor of Thiru Vengala Charyulu, who was granted the land in question in lieu of the services rendered by him as Archaka. The 3rd respondent is still continuing as the Archaka of the Temple, however, he had voluntarily surrendered the possession of the land to the 1st respondent, and opted for payment of salary for the Archakatvam being rendered by him. Thus, the 3rd respondent himself does not have any subsisting rights in respect of the land in question. The petitioner does not dispute the fact that the 1st respondent-Temple is not a party to the compromise decree said to have been passed in O.S.No.1567 of 1985 on the file of the Court of District Munsif, Vijayawada. Hence, the petitioner cannot enforce the said compromise decree against the 1st respondent-Temple. Even assuming that the petitioner is prejudiced in any manner, it is for him to work out appropriate remedy against the 3rd respondent, but he cannot claim any right to continue in possession of the land in question. Hence, the auction conducted by the 1st respondent on 20.06.2005 as well as 25.07.2005, cannot be held to be arbitrary or illegal.

It is also relevant to note that the specific case of the 1st respondent is that the second auction conducted on 25 .07.2005 has already been approved by the competent authority as required under the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, and that the successful bidder has been put in physical possession. Nothing has been placed before this Court to contradict the said version of the 1st respondent, much less to show that the petitioner is still continuing in possession.

In the circumstances, I do not find any justifiable reason to hold that the public auction conducted by the 1st respondent in respect of the leasehold rights of the land in question is either arbitrary or illegal. Similarly, the grievance of the 2nd respondent that he was not put in possession of the land in question, though he was the successful bidder, need not be gone into in this Writ Petition, since, admittedly, the 1st respondent has conducted a re-auction on 25.07.2005, in which one Praveen Kumar was declared as the successful bidder and he was also put in possession. At any rate, since W.P.No.18059 of 2005 filed by the 2nd respondent, with regard to the validity of the re-auction conducted by the 1st respondent, is pending, it is always open to him to pursue the same.

The Writ Petition is devoid of any merit and the same is dismissed. No costs.

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January 23, 2006. (G. ROHINI, J.)

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14445 OF 2005

January 23, 2006.

Between:

Aluri Seshagiri Rao. .. Petitioner.

And

The Executive Officer,

Sri Veeranjaneya Swamywari Temple,

Suryapalem, Gollapudi Post,

Krishna District and three others. .. Respondents.